

1 Zoya Kovalenko (Cal. SBN 338624)
13221 Oakland Hills Blvd., Apt. 206
2 Germantown, MD 20874
(678) 559-4682
3 zoyavk@outlook.com
Plaintiff Zoya Kovalenko
4
5
6
7

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 OAKLAND DIVISION

11 ZOYA KOVALENKO,

12 *Plaintiff,*

13 v.

14 KIRKLAND & ELLIS LLP, MICHAEL
DE VRIES, MICHAEL W. DEVRIES,
15 P.C., ADAM ALPER, ADAM R. ALPER,
P.C., AKSHAY DEORAS, AKSHAY S.
16 DEORAS, P.C., AND MARK FAHEY,

17 *Defendants.*
18
19
20
21
22
23
24
25
26
27
28

Case No. 4:22-cv-05990-HSG

**ADMINISTRATIVE MOTION TO
PARTIALLY SEAL PLAINTIFF'S
MOTION TO NOTICE TERMINATION
OF FILIPPATOS PLLC FOR CAUSE, TO
REQUIRE FILIPPATOS PLLC TO
PROVIDE CLIENT FILE TO
PLAINTIFF, AND TO REQUIRE
FURTHER BRIEFING *EX PARTE***

[Civil Local Rules 79-5(c) & 7-11]

Re: Dkt. Nos. 171, 171-1, 171-4.

**ADMINISTRATIVE MOTION TO PARTIALLY SEAL PLAINTIFF’S MOTION TO
NOTICE TERMINATION OF FILIPPATOS PLLC FOR CAUSE, TO REQUIRE
FILIPPATOS PLLC TO PROVIDE CLIENT FILE TO PLAINTIFF, AND
TO REQUIRE FURTHER BRIEFING *EX PARTE***

Plaintiff terminated her counsel, Filippatos PLLC (“Filippatos”), for cause on January 23, 2025, and respectfully moves the Court to seal portions of: (i) Plaintiff’s Motion to Notice Termination of Filippatos PLLC for Cause, to Require Filippatos PLLC to Provide Client File to Plaintiff, and to Require Further Briefing *Ex Parte*, Dkt. No. 171 (“**Plaintiff’s Motion to Notice Termination of Filippatos**”); (ii) the Declaration of Zoya Kovalenko in Support of Plaintiff’s Motion to Notice Termination of Filippatos, Dkt. No. 171-1 (the “**Kovalenko Declaration ISO Plaintiff’s Motion to Notice Termination of Filippatos**”); and (iii) Attachment C to the Kovalenko Declaration ISO Plaintiff’s Motion to Notice Termination of Filippatos, Dkt. No. 171-4. Civil L.R. 79-5; Civil L.R. 7-11; Standing Order for Civil Cases Before District Judge Haywood S. Gilliam, Jr. (July 9, 2024) ¶¶ 27–32.

Plaintiff further requests that the document filed as Attachment C to the Kovalenko Declaration ISO Plaintiff’s Motion to Notice Termination of Filippatos, Dkt. No. 171-4, be removed and replaced with the redacted version attached hereto (Dkt. No. 176-6) as the original attachment did not include redactions and has been temporarily blocked from public access. Declaration of Zoya Kovalenko in Support of Administrative Motion to Partially Seal Plaintiff’s Motion to Notice Termination of Filippatos PLLC for Cause, to Require Filippatos PLLC to Provide Client File to Plaintiff, and to Require Further Briefing *Ex Parte* (“**Kovalenko Declaration ISO Motion for Partial Sealing**”), attached hereto, ¶ 7.

I. ARGUMENT

A. Applicable Legal Standard

“Records attached to motions that are ‘not related, or only tangentially related, to the merits of a case’ are not subject to the strong presumption of access.” *Arebalo v. Apple, Inc.*, No. 5:19-CV-03034-EJD, 2022 WL 580865, at *1 (N.D. Cal. Feb. 25, 2022) (quoting *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1099 (9th Cir. 2016)) (citing *Kamakana v. City &*

Cnty. of Honolulu, 447 F.3d 1172, 1179 (9th Cir. 2006) (“[T]he public has less of a need for access to court records attached only to non-dispositive motions because those documents are often unrelated, or only tangentially related, to the underlying cause of action.”)). “Parties moving to seal records attached to motions unrelated or only tangentially related to the merits of a case must meet the lower ‘good cause’ standard of Rule 26(c) of the Federal Rules of Civil Procedure. *Arebalo*, 2022 WL 580865, at *1 (citing *Ctr. for Auto Safety*, 809 F.3d at 1098–99; *Kamakana*, 447 F.3d at 1179–80). “The ‘good cause’ standard requires a ‘particularized showing’ that ‘specific prejudice or harm will result’ if the information is disclosed.” *Arebalo*, 2022 WL 580865, at *1 (quoting *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206, 1210–11 (9th Cir. 2002)) (citing Fed. R. Civ. P. 26(c)). “‘Broad allegations of harm, unsubstantiated by specific examples or articulated reasoning’ will not suffice.” *Arebalo*, 2022 WL 580865, at *1 (quoting *Beckman Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992)).

B. Reasons for Sealing

Courts routinely find good cause exists to seal information related to settlement negotiations and mediation proceedings. *E.g.*, *Gillette Co. v. Pace Shave, Inc.*, Case No.17-mc-80045-JSC, at *3 (N.D. Cal. Jul. 25, 2017), <https://casetext.com/case/gillette-co-v-pace-shave-inc> (“After careful review of Movants’ and Gillette’s submitted documentation, this Court agrees that the revised redacted material concerns sensitive business information regarding settlement negotiations and agreements between the parties. As such, the Court finds good cause to seal this sensitive information.” (citing *San Jose Mercury News v. U.S. Dist. Court*, 187 F.3d 1096, 1103 (9th Cir. 1999)); *HotSpot Therapeutics, Inc. v. Nurix Therapeutics, Inc.*, No. 22-CV-04109-TSH, 2023 WL 3259471, at *3 (N.D. Cal. May 3, 2023) (finding good-cause standard met for “information pertaining to confidential mediation communications” and granting motion to seal same); *Chi-Fu Hsueh v. Bankers Life & Cas. Co.*, 421 F. Supp. 3d 937, 945–46 (S.D. Cal. 2019) (granting motion to seal documents related to parties’ mediation, including declaration).

Here, there are legitimate public and private interests in sealing information related to mediation and settlement negotiations, as doing so encourages settlement. *U.S. E.E.O.C. v. ABM*

Indus. Inc., No. 1:07-CV-01428 LJOJLT, 2010 WL 582049, at *2 (E.D. Cal. Feb. 12, 2010) (acknowledging that “confidentiality of the mediation process encourages settlement” (quoting *United States v. Glens Falls Newspapers, Inc.*, 160 F.3d 853, 858 (2nd Cir. 1998))). Moreover, there are legitimate public and private interests in preserving confidential communications involving attorneys, such as those referenced in Plaintiff’s Motion to Notice Termination of Filippatos, Dkt. No. 171, and Kovalenko Declaration ISO Plaintiff’s Motion to Notice Termination of Filippatos, Dkt. No. 176-6, with respect to Plaintiff’s discussions with her former counsel. *Sabre Int’l Security v. Torres Advanced Enter. Solutions, LLC*, 219 F. Supp. 3d 155, 158–59 (D.D.C. 2016) (“Numerous courts have reviewed ... affidavits under seal to ascertain the basis of the motion to withdraw without upsetting the attorney-client privilege.”); *Team Obsolete Ltd. v. A.H.R.M.A. Ltd.*, 464 F. Supp. 2d 164, 165–66 (E.D.N.Y. 2006) (“A review of the relevant case law demonstrates that documents in support of motions to withdraw as counsel are routinely filed under seal where necessary to preserve the confidentiality of the attorney-client relationship between a party and its counsel, and that this method is viewed favorably by the courts.”).

Less restrictive alternatives to sealing are not available as Plaintiff has already limited the sealing request to tailored portions of the documents for which sealing is sought hereunder. Kovalenko Declaration ISO Motion for Partial Sealing ¶ 5. A table regarding additional support for the redactions follows.

Docket No. Public/(Sealed)	Document	Portions Sought to Be Sealed	Evidence Offered in Support of Sealing
Dkt. No. 171/(176-3)	Plaintiff’s Motion to Notice Termination of Filippatos	p. 2 n.2 (ll. 27–28). p. 3, ll. 16–20, 23–25. p. 4, ll. 1, 3–4, 5, 9–11. p. 11, ll. 15, 18–28. p. 12, ll. 1–9, 11, 14, 24. p. 13, ll. 1, 7–8, 14–15, 16 & nn.9–10 (ll. 23–24, 25, 26–28). p. 14, ll. 15, 17.	Kovalenko Decl. ISO Motion for Partial Sealing ¶¶ 3–5. Good cause exists to seal this information because it relates to and involves confidential

		p. 15, l. 11 & n.11 (ll. 24–26). p. 20, ll. 16–19.	settlement negotiations and mediation proceedings, which, if disclosed, would undermine public interest in encouraging parties to consider out-of-court resolutions.
Dkt. No. 171-1/(176-4)	Kovalenko Declaration ISO Plaintiff's Motion to Notice Termination of Filippatos	p. 3, ll. 17–28. p. 4, ll. 1–28. p. 5, ll. 1–28. p. 6, ll. 1–25, 27–28. p. 7, ll. 1–3, 6–12, 17–18. p. 8, ll. 9, 24–28. p. 9, ll. 1–28. p. 10, ll. 1–19. p. 13, ll. 18–22. p. 14, ll. 2–8.	Kovalenko Decl. ISO Motion for Partial Sealing ¶¶ 3–5. Good cause exists to seal this information because it relates to and involves confidential settlement negotiations and mediation proceedings, which, if disclosed, would undermine public interest in encouraging parties to consider out-of-court resolutions.

Dkt. No.	Attachment C	p. 1–3.	Kovalenko Decl. ISO
171-4* /	(Termination		Motion for Partial
(176-5)	Email and		Sealing ¶¶ 3–5, 8.
	Response) to		Good cause exists to
*176-6 is the	Kovalenko		seal this information
redacted	Declaration		because it relates to
version of 176-	ISO Plaintiff's		and involves
5 and should	Motion to		confidential
replace the	Notice		settlement
document filed	Termination		negotiations and
at 171-4.	of Filippatos		mediation
			proceedings, which, if
			disclosed, would
			undermine public
			interest in
			encouraging parties to
			consider out-of-court
			resolutions.

CONCLUSION

Plaintiff respectfully requests the Court permit Plaintiff's Motion to Notice Termination of Filippatos, Dkt. No. 171, and the Kovalenko Declaration ISO Plaintiff's Motion to Notice Termination of Filippatos, Dkt. No. 171-1, to remain partially sealed as filed with redactions at Dkt. Nos. 171 and 171-1, respectively. Plaintiff further requests that the document filed as Attachment C to the Kovalenko Declaration ISO Plaintiff's Motion to Notice Termination of Filippatos, Dkt. No. 171-4, be removed and replaced with the redacted version attached as Dkt. No. 176-6 to the attached Kovalenko Declaration in Support of Partial Sealing as the original attachment did not include redactions and has been temporarily blocked from public access.

1 Respectfully submitted this 30th day of January 2025.

2 By: /s/ Zoya Kovalenko

3 Zoya Kovalenko (Cal. SBN 338624)
4 13221 Oakland Hills Blvd., Apt. 206
5 Germantown, MD 20874
6 Tel.: 678 559 4682
7 zoyavk@outlook.com
8 *Plaintiff Zoya Kovalenko*
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28